The Tribunal then discussed the meaning of paragraph 2 of Article 296, it being hardly to be supposed that the High Contracting Powers had the intention to differ in this respect between the two paragraphs. The wording of this paragraph was not, they stated, so clear as the wording of the preceding paragraph. Four different dates had been suggested as possible material dates for the test of nationality: (1) the date when the contract was made or the transaction took place; (2) the date of the outbreak of war—viz., the 4th August, 1914; (3) the date when the debt became payable during the war; and (4) the date when the Treaty of Versailles came into force. After reviewing and pointing out the difficulty of adopting each of the first three alternative suggestions, the Tribunal declared that the ambiguity of the text of paragraph 2 ought not to lead to the consequence of accepting for paragraph 1 another interpretation than the natural one under the clear text of paragraph 1 itself. It seemed right, therefore, to accept the date of the coming into force of the Treaty of Versailles as the material date for that paragraph. Even if the acceptance of that date might have consequences not envisaged by the High Contracting Powers, those consequences were not of a nature to make it necessary to accept another interpretation of the Treaty than the one most adapted to its own wording. The Tribunal accordingly decided in the case before them that there was a debt within the meaning of Article 296 of the Treaty of Versailles of the sum of £506 claimed, and directed that it be credited by the German Clearing Office to the British Clearing Office with interest at the Treaty rate from the 4th August, 1914, until crediting.

In the case of J. F. Smith and Paul G. A. Fanghanel *v.* Rheinhold (No. 1221), (*Recueil*, iv, p. 664), the First Division of the Tribunal adhered to their decision in Rehder *v.* Landgesellschaft Wannsee (No. 1543), and applied it to a debt which, as in the latter case, they held to come under (2) of Article 296. Mr. Aeschlimann, a Swiss national, lent the debtor, a German national, two sums of Mks. 5,000 each upon the security of two promissory notes, the debtor agreeing to repay the principal at three months' notice. Mr. Aeschlimann, who had lived in Great Britain since 1878, died on the 23rd March, 1918, his nationality remaining Swiss, and appointed J. F. Smith and P. G. A. Fanghanel executors of his will. These two persons accordingly claimed that the amount due on these notes—*i.e.*, £462 1s. 4d.—was, at the date of the coming into force of the Treaty, a debt due from a German national residing in Germany to British nationals residing in England, and submitted that the principles in Rehder *v.* Landgesellschaft Wannsee should not apply, because in that case the debt was claimed under Article 296 (2).

The Tribunal, however, were of opinion that it could not be said that the debts here in question were due and payable before the war. The result was that the decision in the case above referred to was directly in point, and they applied to the case before them the reasons which they gave in their former decision. In order to succeed it would be necessary to establish that the debt was due to a British national not only on the 10th January, 1920, but on the date at which it became payable. The creditors therefore failed in their claim.

(2.) *Stockbroking Transactions.*

With reference to claims arising out of stockbroking transactions, the case of Seligman, Weinberger, & Pearson *v.* Dreher & Uhry (No. 758), (*Recueil*, iii, p. 749, iv, p. 657), noted in last year's report, in which the First Division held that the claimants, who were British stockbrokers, were only entitled to commission earned on the 27th July, 1914, but not to later commissions, because commission was due only under the contract of brokerage which was dissolved at the outbreak of war, came in for further argument on certain points. The Tribunal decided that a broker continuing stock with a jobber, as a result of which he has become personally liable to the jobber, is entitled to be indemnified by his client in respect of his disbursements—*i.e.*, subject to all contangoes and differences of price paid by him during the time in which the stock is continued by such jobber. The time continued until the stock was taken up by the broker (whether he deposited it with a bank or not), or if it was not taken up, then up to and including the 9th January, 1920. The brokers were entitled to 5 per cent. interest on differences, contango charges and commission, the debtors being credited with dividends on securities whilst the securities were carried on the market for them. Where the stock represents part of a block and the brokers are unable to state whether the particular stock carried for the debtors was continued on the market or taken up, it is for the brokers to prove the loss in respect of which they claim indemnity, but where they cannot produce the evidence the Tribunal will apply the principle of proportion. For each denomination of stock and for each account day the proportion of the total stock dealt with in one way or the other can be ascertained by simple calculation, and such proportion will be applied to the amount in which the debtors were interested. The details of the items to be allowed to the brokers are set out fully in the Tribunal's award.

The right of a stockbroker who "takes in" shares for his German customer to recover the purchase price, as to which a decision adverse to the British claimant was given by the First Division in the above-mentioned case of Seligman, Weinberger, & Pearson *v.* Dreher & Uhry (No. 758), was again argued at some length in Wassermann Plaut & Co. *v.* Oscar Heimann & Co. (No. 1624). The British creditors claimed the sum of £2,122 10s. 1d. from the debtors in the following circumstances: Some time before the outbreak of war the creditors had been instructed by the debtors to buy, and did buy, certain shares. At the outbreak of the war the creditors were carrying over these shares for account of the debtors. At the beginning of the transaction they acted as agents only, and in so doing effected contracts between their clients and other parties as sellers of the shares, but the other parties to the contract had, by the time of the outbreak of the war, dropped out, and the debtors and creditors were then the only parties concerned in the transaction. The creditors accordingly claimed that the manner in which they had acted in "taking in" these shares constituted an act giving rise to a pecuniary obligation which remained enforceable in the clearing procedure, and was saved from dissolution under Article 299 (*a*) of the Treaty. This involved asking the Tribunal to hold that the construction placed by them on the similar transactions in the case above referred to was a wrong construction. The creditors did not rely upon certain of the arguments put forward in that case, and in particular no longer contended that a broker who himself "took in" was not a principal in the transaction as regards his client.

On behalf of the creditors, the transactions in the shares referred to were explained as follows. The debtors gave an order to purchase the shares to the creditors, who made the purchase on behalf of the debtors for the next account day. The creditors therefore became liable to take delivery and pay for the shares on that day. The debtors, however, not wishing themselves to take delivery, instructed the creditors to continue. The creditors, when the time came to complete the transaction, paid the price and took delivery, this being done, it was claimed, on behalf of the debtors, and, as a consequence, in the absence of instructions to continue, the creditors would be in a position of holding shares the property of their customer, subject to their lien for the purchase price.

For the creditors it was contended that the sale and the agreement to rebuy constituted one contract, and that the actual position on the outbreak of war was that the debtors having at the end-July account purchased the stock in accordance with their mid-July contract, the creditors had rebought the same stock from them at the making-up price of the end-July account and had undertaken to sell, and the debtors had undertaken to buy at mid August a similar quantity of the same stock at the making-up price of the end-July account, plus the contango. If the effect of Article 299 (*a*) was to annul completely the contract, the creditors claimed to be entitled to be put back in the position in which they were when they purchased the stock for the debtors, and to receive the purchase price plus interest at a reasonable rate. If, on the other hand, the effect of Article 299 was only to dissolve the contract, there remained on the part of the debtors a pecuniary obligation to pay the making-up price of the end-July account against delivery of the stock.

In the opinion of the Tribunal the creditors' claim failed. They could not uphold the creditors' contention that the transaction, entered into fortnightly, and for the last time at the end of July, 1914, was a single contract. Section 77 (2) of the Finance (1909–10) Act, 1910, contains a provision which apparently treated a carrying-over transaction as consisting of two contracts, and in the opinion of the Tribunal there were two contracts, the dissolution of which occurred at a time at which one had been completed and the other remained purely executory, nothing having been done on either side to give rise to a pecuniary obligation. Viewed as a single contract, at the time of